

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 832 – SB 1052**

March 28, 2021

**SUMMARY OF BILL:** Deletes requirement that the Commissioner of the Department of Revenue (DOR) disclose, upon request by the Attorney General and Reporter (AG), or any attorney working under the AG's supervision and control, information obtained by the Commissioner that is relevant to the enforcement of the Tennessee Tobacco Manufacturers' Escrow Fund Act of 1999 (the Act). Removes authority of the Commissioner, the AG, or any attorney working under the AG, to disclose confidential information obtained under the Act.

Establishes that any tobacco sales data provided by another state, a tobacco product manufacturer, or other person or entity to a data clearinghouse pursuant to the non-participating manufacturer (NPM) adjustment settlement agreement that is also provided to the Commissioners shall be treated as confidential tax information.

**ESTIMATED FISCAL IMPACT:**

**Other Fiscal Impact – This legislation could result in a recurring decrease in business expenditures of approximately \$20,228,000 that the state would otherwise expect to collect in FY21-22 and subsequent years from payments made from the Tobacco Master Settlement Agreement.**

Assumptions:

- This legislation will prohibit the DOR from disclosing tobacco information to the AG's office regarding the tobacco escrow fund, tobacco master settlement agreement (MSA), the NPM adjustment settlement agreement, and any litigation related to these tobacco issues.
- The AG uses this information to enforce the Act.
- According to the DOR, Tennessee receives its annual share of the master settlement agreement (MSA) through diligent enforcement of the MSA.
- According to the DOR, failure to enforce such agreement could result in Tennessee receiving a lower MSA payment subject to an NPM adjustment.
- According to the AG's office, the projected payment for FY20-21 is \$155,600,000.
- Assuming a similar payment in FY21-22 and subsequent years, and potential NPM adjustment of approximately 13 percent, this legislation could result in a recurring decrease in state revenue of approximately \$20,228,000 (\$155,600,000 x 13%).

## **IMPACT TO COMMERCE:**

**Other Commerce Impact – This legislation could result in a recurring decrease in business expenditures of approximately \$20,228,000 that the state would otherwise expect to collect in FY21-22 and subsequent years from payments made from the Tobacco Master Settlement Agreement.**

### **Assumptions:**

- Deleting the provision requiring the Commissioner or the DOR to disclose relevant and confidential information to the AG will inhibit the ability of the state to enforce the Act and could result in a recurring decrease in state revenue of approximately \$20,228,000.
- For the purposes of this fiscal analysis, it is assumed that any such decrease would translate into equivalent decrease in business expenditures for tobacco companies.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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